

RECEIVED
US MARSHALS SERVICEUNITED STATES DISTRICT COURT
for the
Western District of North Carolina WESTERN NORTH CAROLINA

2016 JAN -6 PM 4:39

United States of America)
 v.) Case No. 0419 3:15CR00248-001
)
)
)
 Jerell Mulkey)
 Defendant)

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) Jerell Mulkey,

who is accused of an offense or violation based on the following document filed with the court:

Indictment Superseding Indictment Information Superseding Information Complaint
 Probation Violation Petition Supervised Release Violation Petition Violation Notice Order of the Court

This offense is briefly described as follows: See Petition for Warrant.

Date: 1-6-16City and state: Charlotte NCFrank G. Johns*Issuing officer's signature*

Frank G. Johns, Clerk of Court

Printed name and title

Return

This warrant was received on (date) _____, and the person was arrested on (date)
at (city and state) _____.

Date: _____

*Arresting officer's signature**Printed name and title*

January 08, 2016

PROB 12C (NCW Rev. 1/13)

UNITED STATES DISTRICT COURT
Western District of North Carolina

David J. Bradley, Clerk of Court

H 16-31M**Petition for Warrant for Offender Under Supervision**Name of Offender: **Jerell Mulkey**Case Number: **0419 3:15CR00248-001**

Name of Sentencing Judicial Officer: The Honorable Jerome B. Simindale, U.S. District Court Judge

Name of Reassigned Judicial Officer: The Honorable Frank D. Whitney, Chief U.S. District Court Judge

Date of Original Sentence: **7/9/2010**Register Number: **43591-279**PACTS Number: **24808**Original Offense: **Count One: Bank Robbery, 18 U.S.C. 2113(a) – a Class C Felony**
Count One – Five: Bank Robbery, 18 U.S.C. 2113(a) – a Class C FelonyOriginal Sentence: **Imprisonment for a term of 78 months, on Count One of Criminal Docket No. 10-00092-01 and terms of 78 months on each Count One through Five of Criminal Docket No. 10-00176-001, all counts to be served concurrently, for a total sentence of 78 months. Special Conditions: 1) Special Assessment: \$600.00 (paid); 2) Restitution: \$30,300 (Balance: \$14,225.00) 3) Gambling Restrictions and Registration on Exclusion List: You shall refrain from all gambling activities, legal or otherwise, to include the purchase or receipt of lottery tickets. You shall register on the self-exclusion lists maintained by the New Jersey casino control commission and race track commission within sixty days of the commencement of supervision and remain on these lists for the duration of supervision. The probation officer shall supervise your compliance with this condition.**

4) Mental Health Treatment: You shall undergo treatment in the mental health program approved by the United States Probation Office until discharged by the court. As necessary, said treatment may also encompass treatment for gambling, domestic violence, and/or anger management, as approved by the United States Probation Office; until discharged by the court. (Complete) The probation officer shall supervise your compliance with this condition. **5) Restrictions from entering gambling establishments:** You shall not enter any gambling establishment without the permission of the U.S Probation Office and/or the court.

Prior Revocations: **None**Prior Modifications: **None**Type of Supervision: **Supervised Release**Date Supervision Commenced: **January 30, 2015**Assistant U.S. Attorney: **Stephen Stigall**Defense Attorney: **James Leonard****PETITIONING THE COURT**

To issue a warrant
 To issue a summons

BOND RECOMMENDATION: Detention: In light of the violations detailed herein, as well as the external circumstances surrounding the offender, it is possible that the safety of the offender, third parties and the supervising officer will be an issue.

The probation officer believes that the offender has violated the following condition(s) of supervision:

| <u>Violation Number</u> | <u>Nature of Noncompliance</u> |
|-------------------------|--|
| 1. | FAILURE TO COMPLY WITH DRUG TESTING / TREATMENT REQUIREMENTS (Date violation concluded: 9/10/2015). The defendant has violated the condition of supervision that states, "The defendant shall participate in a program of testing and treatment or both for substance abuse if directed to do so by the probation officer, until such time as the defendant is released from the program by the probation officer; provided, however, that defendant shall submit to a drug test within 15 days of release on probation or supervised release and at least two periodic tests thereafter for use of any controlled substance, subject to the provisions of 18 U.S.C. § 3563(a)(4) or 18 U.S.C. § 3583(d), respectively. The defendant shall refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or monitoring which is (are) required as a condition of supervision," in that, the defendant failed to report for random urinalysis testing on 9/10/2015. (Grade C Violation) |
| 2. | FAILURE TO REPORT TO PROBATION OFFICER AS INSTRUCTED (Date violation concluded: 9/16/2015). The defendant has violated the condition of supervision that states, "The defendant shall report in person to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month," in that, on 9/9/2015, this officer had a phone conversation with the defendant and instructed him to report to the office on 9/16/2015 at 8:00 am for an office visit. The defendant failed to report as instructed. (Grade C Violation) |
| 3. | UNAUTHORIZED TRAVEL (Date violation concluded: 9/14/2015). The defendant has violated the condition of supervision that states, "The defendant shall not leave the Western District of North Carolina without permission of the Court or the probation officer," in that, the defendant left the Western District of North Carolina on or about 9/14/2015 as evidenced by his arrest in North Houston Texas on 9/14/2015. (Grade C Violation) |
| 4 | FAILURE TO REPORT CONTACT WITH LAW ENFORCEMENT OFFICER (Date violation concluded: 7/3/2015). The defendant has violated the condition of supervision that states, "The defendant shall notify the probation within 72 hours defendant's being arrested or questioned by a law enforcement officer," in that, on 7/3/2015, the defendant was pulled over in Jefferson County, Texas and issued a warning ticket and failed to notify his officer of this contact with law enforcement as required. (Grade C Violation) |
| 5. | NEW LAW VIOLATION (Date violation concluded: 8/29/2015). The defendant has violated the condition of supervision that states, "The defendant shall not commit another federal, state, or local crime," in that, on 9/14/2014, the defendant was arrested and charged with Count One: Bank Robbery (18 U.S.C. 2113(a) – a Class C Felony) in the Southern District of Texas with an offense date of 8/29/2015. The defendant is currently in custody on this pending charge. (Grade A Violation) |
| 6 | NEW LAW VIOLATION (Date violation concluded: 8/29/2015). The defendant has violated the condition of supervision that states, "The defendant shall not commit another federal, state, or local crime," in that, on 9/14/2014, the defendant was arrested and charged with Count Two: Attempted Bank Robbery (18 U.S.C. 2113(a) – a Class C Felony) in the Southern District of Texas with an offense date of 8/29/2015. The defendant is currently in custody on this pending charge. (Grade A Violation) |
| 7 | NEW LAW VIOLATION (Date violation concluded: 8/1/2015). The defendant has violated the condition of supervision that states, "The defendant shall not commit another federal, state, or local crime," in that, on 9/14/2014, the defendant was arrested and charged with Count One: Bank Robbery (18 U.S.C. 2113(a) – a Class C Felony) in the Southern District of Texas with an offense date of 8/1/2014. The defendant is currently in custody on this pending charge. (Grade A Violation) |
| 8. | NEW LAW VIOLATION (Date violation concluded: 9/14/2016). The defendant has violated the condition of supervision that states, "The defendant shall not commit another federal, state, or local crime," in that, on 9/14/2014, the defendant was arrested and charged with Count One: Bank Robbery (18 U.S.C. 2113(a) – a Class C Felony) in the |

Southern District of Texas with an offense date of 9/14/2014. The defendant is currently in custody on this pending charge. (Grade A Violation)

9. NEW LAW VIOLATION (Date violation concluded: 9/14/2016).

The defendant has violated the condition of supervision that states, "The defendant shall not commit another federal, state, or local crime," in that, on 9/14/2015, the defendant was arrested and charged with (F) Evade Arrest/Detention with a Vehicle in Houston Texas with an offense date of 9/14/2014. This charge is in connection with the above listed bank robbery and the defendant is currently in custody. (Grade B violation)

U.S. Probation Officer Recommendation:

The term of supervision should be

revoked.
 extended for years, for a total term of years.

It is requested that access to this document be restricted to the U.S. Attorney until service; upon notification that service has been effected the document shall be made available to case participants only.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

By s/ John T. Holiday

John T. Holiday
U.S. Probation Officer
200 South College St
Suite 1650
Charlotte, NC 28202
704-350-7651

Date: January 5, 2016

Approved by:

s/ Keith S. Snyder II

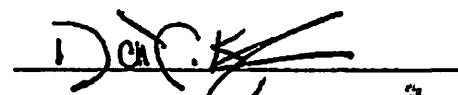
Keith S. Snyder II
Supervising U.S. Probation Officer
704-350-7653

THE COURT ORDERS

No Action
 The Issuance of a Warrant
 The Issuance of a Summons
 Other

Date: January 6, 2016

Signed: January 6, 2016



David C. Keesler
United States Magistrate Judge

OFFENDER CHARACTERISTICS:

Family: The defendant has family in Texas and New Jersey. He also has two children.

Employment: The defendant was working at Golden Gate LLC, however, due to the offender not reporting his employment status is unknown as of the date of this report.

Financial: The defendant was working at a job which paid minimum wage. However, it never appeared that the defendant had the motivation to attempt to secure better employment.

Health: The defendant has no known health problems.

Summary of Defendant's Adjustment to Supervision: The defendant started his supervision on a fairly positive note. He was always polite and respectful to this officer. He also worked fairly consistently. The defendant reported for drug screens as required and all drug screens were negative. However, as evidenced by his new charges the defendant appears to have resorted back to criminal activity and revocation proceeding are necessary at this time.

Summary of Officer Intervention: No intervention was required until the request of a warrant from the Court.

Prior Record: Attached is Part B of the Presentence report outlining this defendant's prior record.

STATUTORY PROVISIONS:

If the Court finds that the defendant has violated the conditions of supervised release, it may modify the conditions, extend the term of supervision (if less than the maximum authorized term was previously imposed), or revoke the term of supervision, all according to 18 U.S.C. § 3583(e). If the Court revokes the term of supervised release, it may require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release, without credit for time previously served on post-release supervision. Since the original offenses were Class C felonies, the defendant cannot be required to serve more than two years in prison, per count, pursuant to 18 U.S.C. § 3583(e)(3).

Additionally, if the defendant possesses a controlled substance, possesses a firearm, refuses to comply with drug testing, or as part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year, 18 U.S.C. § 3583(g) directs the Court to revoke supervised release and sentence the defendant to a term of imprisonment not to exceed the maximum term authorized by statute. However, the Court, acting in accordance with the sentencing guidelines, has the authority to except an offender who fails a drug test from the mandatory revocation provisions pursuant to 18 U.S.C. § 3583(d). This provision states "...The Court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with the USSC guidelines from the rule of 18 U.S.C. § 3583(g), when considering any action against a defendant who fails a drug test."

Additionally, when the term of supervised release is revoked, the Court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. Pursuant to the PROTECT Act, the length of such term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release. Therefore, since the original offense is a Class C felony, the Court may impose a new term of supervised release of 36 months per count, less any term of imprisonment that is imposed upon revocation of supervised release.

Pursuant to the Mandatory Victims Restitution Act of 1996 and 18 U.S.C § 3663A, payment of restitution is mandatory.

GUIDELINE PROVISIONS:

Violations 5, 6, 7, and 8 listed above are Grade A violations pursuant to 7B1.1(a)(1). According to 7B1.3(a)(1), upon a finding of a Grade A violation, the Court shall revoke supervised release. The Revocation Table at 7B1.4(a) provides for a guideline range of 12-18 months imprisonment for a Grade A violation with a criminal history category of I.

Violation 9 listed above is a Grade B Violation pursuant to 7B1.1(a)(2). According to 7B1.3(a)(1), upon a finding of a Grade B violation, the Court shall revoke supervised release. The Revocation Table at 7B1.4(a) provides for a guideline range of 4-10 months imprisonment for a Grade B violation with a criminal history of I.

Violations 1, 2, 3, and 4 listed above are Grade C violations pursuant to 7B1.1(a)(3). According to 7B1.3(a)(2), upon a finding of a Grade C violation, the Court may (A) revoke supervised release; or (B) extend the term of supervised release and/or modify the conditions of supervision. The Revocation Table at 7B1.4(a) provides for a guideline range of 3-9 months imprisonment for a Grade C violation with a criminal history category of I.

The Policy Statement of 7B1.3(e) also recommends that the sentence of imprisonment be increased by the amount of time of official detention that will be credited towards service of that term under 18 U.S.C. § 3585(b) other than time resulting from the supervised release warrant or proceeding. Since there is no official detention adjustment necessary for the defendant, the imprisonment range is 12-18 months on the Grade A Violations, 4-10 months on the Grade B Violation, and 3-9 months on a Grade C Violation.

Pursuant to 7B1.3(g)(2), where supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the Court may include a requirement that the defendant be placed on a term of supervised release upon release from imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

Submitted this 5th day of January, 2016

by s/ John T. Holiday
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 Suite 1650
 Charlotte, NC 28202
 704-350-7651

Approved by: s/ Keith S. Snyder II
 Keith S. Snyder II
 Supervising U.S. Probation Officer
 704-350-7653

cc: AUSA
 Defense Counsel